

Committee on Resources

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On behalf of the

New Mexico Cattle Growers' Association
New Mexico Farm & Livestock Bureau
And the
Rio Grande Water Users

Before the Committee on Resources
United States House of Representatives

Hearing on the Silvery Minnow's Impact on New Mexico

September 6, 2003 / Belen, New Mexico

Mr. Chairmen, members of the Committee, my name is Jessica Sanchez and I live here in Belen, New Mexico. On behalf of the New Mexico Cattle Growers' Association (NMCGA) and the New Mexico Farm & Livestock Bureau (NMFLB) and all of agriculture impacted by the Endangered Species Act (ESA), let me begin by expressing our sincere appreciation to you for this hearing today and taking the time to come to New Mexico to learn first-hand about the tremendously negative impacts of the Silvery Minnow and the ESA on our existence as farmers and ranchers.

As for a little history about me, I am an animal science graduate and local farmer. I am neither an attorney nor a biologist. But, I believe my stake in this battle is much greater and with greater tenure. My family has been in agriculture in this part of the world since Onate --- that's over 400 years --- and a heritage we are proud of. I am the oldest of six children, ranging from 13 to 26 years of age, and the daughter of Dr. Roland and Elia Sanchez. We have a family farming operation here in the valley, growing alfalfa and other hay species on 350 acres. In addition, we run 250 head of registered Santa Gertrudis cattle. We feed the hay we grow to our mother cows and then to background our cattle for our value-added natural beef program, as well as selling hay to our neighbors for their livestock operations. We have a ranch at Encino, New Mexico, and lease ranch pastures in other various parts of the state.

In today's agriculture economy, that is not enough income to raise six children. Thus, my father has a "side job" as a physician, practicing family medicine in our community. My mom and dad built this operation from scratch using the heritage and traditional model of their families' farms. My brothers and sisters and I have worked with our parents on the operation for as long as I can remember, just as they did with their parents. We are constantly looking at ways to maximize efficiency, while caring for the natural resources entrusted to us. Our natural beef sales program is just one example of adding value to our product to enhance income to our family farm.

My grandparents on both sides of the family have always made their living in agriculture. They raise chili, a crop New Mexico is known for the world over. As a result of the water ruling, my grandpa, Florian Padilla, has lost approximately 30 percent of this year's chili and other row crops. This farm has been his life and his income. It heartbreaking to see the devastating effects of the ESA on Grandpa. He has shown us, since we were young, how to irrigate and care for the land, handing down his cultural traditions as did his forefathers before him.

My family is much like any number of others in New Mexico and the West who are trying their best to hang on to the last bit of our custom, culture and land. We here in the Southwest are accustomed to dealing with the impacts of Mother Nature --- drought is just another piece of our culture and has been for literally centuries. We are used to dealing with the effects of a cyclic market, although globalism is having its impacts. However, that is a subject for a different hearing.

The ESA is the killing factor that we have no control over and no tools to deal with. We are at the mercy of endless litigation and the courts. Adding insult to injury is the total lack of common sense, balance and reality of the Act. The ESA, in its current form, does nothing to promote collaboration and local solutions.

There is probably no single segment of society that is more concerned with or more instrumental in conserving wildlife and the environment than those of us involved in agriculture. Farmers and ranchers are the most effective conservationists --- and environmentalists --- I know. We love the land and work it every day, which is our motivation to create and protect habitat for all species, including mankind. We have lived in harmony with the land and its wildlife for generations. Were it not for agriculture protecting the land, there would surely be much less diversity of species than we have today. And, we feed and clothe our nation and part of the rest of the world while we are at it. Less than two percent of the American population is involved in agriculture, yet our country has the highest standard of living in the world and are able to provide food for much of the rest of the world.

The Rio Grande has gone dry countless times over the past several centuries, yet there are still silvery minnows, southwestern willow flycatchers and numerous other creatures that live up and down the river. How can that be?

As I said, I am not a biologist, but this tells me that there is not enough science to base sweeping decisions that cannot only destroy families and economies, but animals as well. The Rio Grande Silvery Minnow and the Southwestern Willow Flycatcher versus Keys case is an excellent example of this fact.

We are told that the minnow must have a constant water supply to survive. If there is one major thing that could be done to increase the water supply along the Rio Grande, it is to remove the non-native salt cedar that guzzles the water from the river. Great, let's go eliminate salt cedar. We have the technology to do that, so why aren't we?

Wait a minute. We can't do that. The flycatcher may need that salt cedar for its nesting habitat. Are we trying to protect minnows or flycatchers?

This situation clearly points out a glaring flaw in the ESA. Protecting single species can, and is having tremendous impact on other species. If the goal is truly to protect species, we must look at the cumulative impacts on multiple species. If we don't or the animals being protected are doomed to failure, as are we. There must be educated decisions that balance the needs of all species --- including humans.

To quote the dissenting opinion of 10th Circuit Court of Appeals Judge Kelly, "Under the court's reasoning the ESA, like Frankenstein, despite the good intentions of its creator has become a monster. The ESA was never meant to allow the federal government, on behalf of endangered species, to overturn established precedent."

I couldn't agree with Judge Kelly more. We along the Rio Grande Valley have based our lives and our livelihoods on the river for literally centuries. We have counted on contracts for water delivery with our government to run our operations for decades. Breaches of those contracts in the form of reductions and disruptions of our water supply are costing us not only in terms of the crops we are losing directly, but also in production inefficiency. We never know when we are getting water. When it comes, we must use it or lose it regardless of the time, day or night. We haven't been able to plant in our fall fields nor maintain the pasture rotations that renovate the soil. In addition, fallow fields will increase the invasion of weeds that our communities are dealing with. If we plant to help the soil and protect from weed invasion, we are gambling with \$60,000 just for seed, on our farm alone. Costs of fertilization, labor and equipment wear and tear are all additional. Will we ever have the water to properly care for our land?

If we don't get our water promised under contract, and lose one or two cuttings of hay, we have lost feed for our cattle, which can only be replaced by the purchase of alternative feed, at added cost. But we still have the same costs in our equipment, land and operating loans, whether we are using it productively or not. And I can tell you, without water, it is not productive. We are still paying the same water taxes, whether we receive water or not. Our neighbors who purchase feed from us are forced to go elsewhere if we cannot provide the hay they need. When they must leave the valley for feed it is often at a higher cost of and product.

Agriculture has come to depend upon contracts with our government for everything from water to risk management to conservation. If the government cannot be held accountable to those contracts due to later

changes in law, such as the ESA, what good is entering into a contract?

Even more confusing is that the fact that although, apparently our contracts with the government are meaningless, New Mexicans are being forced to deliver water to Texas under historical contracts and court decisions. Not only is the double standard unfair, but also why are only a few Americans being forced to bear the burden of the ESA? If the Act is the will of the public, shouldn't all Americans be paying the price for their desires? How much is the rest of America paying due to the silvery minnow and willow flycatcher?

The whole ESA requires a strong overhaul. It was a well-intended law designed to protect nationally significant species. Instead, it has become a weapon --- a monster --- that is destroying our custom, culture and families. The emotional toll on all of us is immeasurable. Our elders are suffering because they are not being allowed to care for their land and their animals. Our youth are being driven from the land in search of the ability to care for their families. Health care is well beyond the means of most agricultural incomes, which forces young people to commute or move to urban centers where benefits are provided with jobs.

Our rural communities are dying with this exodus. Our land is suffering the catastrophic effects of mismanagement at the hands of our federal government.

If we cannot count on our justice system for common sense and fairness, we look to you, our representatives in Congress to change the law. Simple band-aides aimed at addressing specific situations will not solve the problems.

It is not only those of us along the Rio Grande who is at the mercy of the ESA for our water. The San Juan, the Pecos and the Canadian are other rivers in New Mexico that will soon be in the same situation. And, we can never forget what the ESA has done to Klamath Falls, Oregon.

Congressman Pearce's HR 2603 addresses this issue with regard to water contracts, and starts the process toward reforming the ESA. The government should not be able to modify the delivery, allocation or storage of water to be delivered under contract. But this is only the first step in addressing the inequities of the ESA.

New Mexico agriculture came together last year and developed the attached list of 17 changes in the ESA that would put a heart and brain in the Act. We hope you will seriously consider making these necessary changes in the current law.

Thank you once again for coming to New Mexico and for taking the time to see those of us who are suffering at the hands of the ESA. As I have said, farmers and ranchers are the best conservationists this nation has and we need your help in protecting not only the land and its creatures, but our families, our communities, and our custom and culture. It is imperative that you act this issue before we lose another farming season. Your actions will impact not only we farmers, but our entire communities. If we are not financially able to participate in commerce in our hometowns, local businesses like grocery stores, car dealership, and other mom and pop operations will die with us. Counties are unable to function without our tax contributions.

I know that we have addressed the protection of two species here today, but there is a third one that is involved as well. That is us, the human race. Decisions that have been made have taken their toll on us economically, physically, and emotionally. Help me and others regain trust in our leaders in order to know that my hard work on the farm that has paid for my education will not go to waste.

The land is our soul and water is our lifeblood. Please, I beg you, help my community, my family and me hold on to the shreds of heritage we have left.